

Controller to deduct \$2.50 per month from the compensation of each municipal employee and to deposit with the City Treasurer to the credit and use of the health service system such sums so deducted. The Controller made the first monthly deduction and then refused to deposit the amount deducted with the City Treasurer until directed so to do by a court of competent jurisdiction.

Thereupon, the members of the health service board petitioned the Supreme Court of the State of California for a writ of mandamus directing the City Controller to deposit said monthly deductions with the City Treasurer as required by Section 172.1 of the charter. That petition is entitled *Butterworth vs. Boyd*, and was finally decided by the California Supreme Court in September, 1938. The opinion of the Court is printed in full in *CALIFORNIA AND WESTERN MEDICINE*, October, 1938, pp. 302-306.

The California Supreme Court held that Section 172.1 of the charter was a valid charter amendment not repugnant to the Constitution of the United States or the Constitution of the State of California and therefore, ordered the Controller to comply with the charter and deposit said monthly deductions with the City Treasurer.

Since the opinion has been published in full, we will not review in detail the rules of law announced by the Court. It should, however, be mentioned that the Supreme Court held the health service system to be a "municipal affair" and, therefore, a proper subject of municipal legislation.

It may well be asked what effect the decision may be expected to have with respect to the legal status of various group medicine and health insurance plans, compulsory or voluntary. The only answer that can be made is that the decision in *Butterworth vs. Boyd* upholds the validity of a compulsory health insurance plan for municipal employees, at the sole expense of such employees and contained in a city charter. It goes no further. A compulsory scheme involving the use of tax funds would present an entirely different problem. A compulsory plan, blanketing in all residents of a community falling in the low income brackets, would likewise present a different problem. The legal status (whatever it may be) of voluntary "closed-staff" group medical plans is in no manner affected by the decision.

SPECIAL ARTICLES

AMERICAN MEDICAL ASSOCIATION CASE MORE THAN CRIMINAL SUIT*

Broad Problem Cited Social Issue Involved May Reach High Court Hearings Resumed

The Department of Justice states it will resume the painstaking fitting together of the evidence on which it expects an extraordinary district grand jury to indict the American Medical Association and the District Medical Society for conspiring to obstruct the Sherman antitrust act by forming unlawful combinations in restraint of trade.

The proceedings, however, are regarded as more than a mere criminal prosecution, whatever its importance. Being prepared in proper legal form for ultimate consideration by the Supreme Court are issues of broad social significance. The misdemeanors alleged to have been committed in the row between American Medical Association and the Group Health Association, which brought the charges, are the peg on which these issues are hung.

CAN DOCTORS GIVE SOLUTION?

Were the juridical-sociologist experts who are directing the grand jury hearings from the council rooms of the New Deal to discard their policy of silence and explain their proceedings they might phrase these issues like this:

Has the problem of preserving or restoring the health of the individual American become so involved with the new and complex structure of the community that the heal-

ing art no longer can supply the solution by functioning on the traditional lines to which it is accustomed—and to which its most solidly entrenched organization, the American Medical Association, clings tenaciously?

Must the physician's economic individualism—which the American Medical Association claims it is safeguarding—give way to group practice or to some other system considered adapted to the needs of modern American society?

Should the medical profession be unable or unwilling to make these adjustments, does the Constitution empower any public agency to coerce them directly or indirectly?

PROBLEM CLOSELY STUDIED

A "totalitarian" settlement of such issues, it was pointed out last week, would be made by decree. However, the present grand jury is only one step in a determination which follows the historic American pattern—invoking many minds, many points of view, both lay and professional, from which will be distilled the new law of the land.

Weeks of study by Department of Justice experts preceded the calling of the extraordinary grand jury. The twenty-three engineers, salesmen, and businessmen over whom Foreman W. R. Bell presides daily in the new Police Court Building are the second stage of the inquiry.

Before them last week four special assistants to the Attorney General laid a general outline of the health problem of the United States. Four experts, three of them listed in "Who's Who," discussed the need they had found for some step to modernize the economics of the healing science.

CALIFORNIA STATE HUMANE POUND ACT

For purposes of record, this initiative act, as its title was given on the November 8, 1938, ballots, and the argument against its passage, appear below:

2. Regulation of Pounds. Initiative Measure. Defines "pounds" and regulates conduct thereof; prescribes duties of poundmasters; prohibits sale, surrender or use of unwanted or unclaimed animals in pounds for scientific, medical, experimental, demonstration or commercial purposes; exempting kennels, buildings or enclosures maintained on own premises by any accredited college, university or any medical research laboratory licensed under State Medical Practice Act, provided cats and dogs therein were bred on the premises or lawfully acquired under provisions of measure; directs that unclaimed and stray animals for which no bona fide home is available be put to death by an approved humane method.

ARGUMENT AGAINST INITIATIVE PROPOSITION NO. 2

What purports to be a simple humanitarian measure, but what is actually *antivivisection* legislation designed to throttle medical research into the causes and cures of disease, appears on the ballot under the misleading title of "State Humane Pound" act.

Having attempted long and unsuccessfully to pass antivivisection laws before the California Legislature, the antivivisectionists now appeal to the voters for the first time since 1922, when they were defeated by the overwhelming majority of 288,444 votes.

Convinced that the public cannot be stampeded into approving of antivivisection through any straight-forward presentation, the antivivisectionists now choose indirect means of accomplishing their purpose. This is their newest strategy, admitted in their own publications. They have chosen the dog "because the dog appeals to everyone." It is an entering wedge for similar laws everywhere.

Stray animals are weighed against babies by the antivivisectionists. Under the "Humane Pound" act the babies would lose!

Careful analysis by eminent lawyers discloses many "jokers" in the apparently innocuous "Humane Pound" act. The broad definition of "pound, publicly or privately conducted," makes everyone a "poundmaster" who accumulates dogs or cats for disposal, other than for sale as pets.

* Excerpts from an article by Dillard Stokes.

Animals for experimental or demonstration use would have to be bred en masse on the very premises of the medical institutions, an entirely impracticable procedure. "Domestic animals" are not defined, nor is an "approved method" of destroying them. The way is opened wide for persecution through constant inquisition.

Section 10, in particular, besides being ambiguous, is so all-inclusive as entirely to prevent scientific research involving the use of animals and thus cripple innumerable life-saving activities in California.

Untold benefits have come through animal experimentation. It is responsible for Lister's development of anti-septic surgery. Without it there would be no present-day control of diphtheria, smallpox, syphilis, and diabetes, to name but a few diseases which once scourged mankind. Advances constantly being made in protecting the public health, testing of life-giving serums, standardization of drugs, safeguarding of canned and other foods, and the evaluation of an adequate diet—all would suffer a severe set-back if this legislation were to pass.

The act would handicap California manufacture of serums for treatment of anthrax, blackleg, Bang's disease, and other ailments of cattle; brain disease and tetanus in horses; distemper, blacktongue, "yellows," and nutritional disorders in dogs; hog cholera and other diseases of swine; anthrax, doxy mouth, and other ills of sheep, and innumerable diseases of poultry such as pox, cholera, coccidiosis, and flukes.

The mis-named "Humane Pound" act is an intelligence test for the people of California. Foremost educators, professional and lay men and women, and scores of scientific societies urge its defeat. Any doubt that it is an antivivisection measure is dispelled by the fact that the officers of the "California Citizens Committee for State Humane Pound Legislation" and those of the "California State Antivivisection Society" are one and the same!

Vote against the "Humane Pound" proposal. If you do not kill this measure it may kill you.

RUFUS B. VON KLEINSMID,
President, University of Southern California.

RAY LYMAN WILBUR,
President, Stanford University.

P. K. GILMAN, M.D.,
San Francisco.

THE NATIONAL CANCER INSTITUTE ACT*

The anticancer movement in all its converging trends—toward education of the public and of physicians, toward improvement and expansion of clinical cancer service, and toward continuous research—resulted last August in the passage by the Congress of the National Cancer Institute Act upon the provisions of which I shall make some explanatory remarks and comments. The character of the act and the circumstances of its passage are, I believe, unique and illustrate how well prepared the ground is for well considered anticancer legislative action. The purpose of the act is to provide for and to foster the continuous study of the cause, the prevention, the diagnosis and treatment of cancer. "With a view to the development and prompt use of the most effective methods of prevention, diagnosis and treatment of cancer there is hereby established in the Public Health Service a division, which shall be known as the National Cancer Institute." In every provision of the act it is stated clearly that the purpose is to further the study of the causes of cancer and the application of useful knowledge, old and new, to the prevention, diagnosis and treatment of cancer. In other words, the act provides for cancer research, clinical and experimental, as well as for the advancement of clinical cancer service. In support of this comment I read practically without change Section 2 of the Act:

The Surgeon General of the Public Health Service is directed, in coöperation with the National Advisory Cancer Council:

(a) To conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of cancer;

(b) To promote the coördination of researches conducted by the National Cancer Institute and similar researches conducted by other agencies, organizations, and individuals;

(c) To procure, use, and lend radium as hereinafter provided;

(d) To provide training and instruction in technical matters relating to the diagnosis and treatment of cancer;

(e) To provide fellowships from funds appropriated or donated for such purpose;

(f) To secure for the Institute consultation services and advice of cancer experts from the United States and abroad, and to coöperate with state health agencies in the prevention, control, and eradication of cancer.

At this point a brief explanation of the National Advisory Cancer Council is in order: The purpose of this Council, which is an appointed body of six members with the Surgeon General as chairman, is to make recommendations to the Surgeon General with respect to carrying out the provisions of the act. Specifically, the Council is authorized to make recommendations in regard to cancer research projects submitted to it or initiated by it; to spread information about cancer studies "for the benefit of health agencies and organizations, physicians, or any other scientists, and for the information of the general public;" and "to review applications from any university, hospital, laboratory, or other institution, whether public or private, or from individuals, for grants-in-aid for research projects relating to cancer, and certify approval of projects deemed worthy of support."

The act provides \$750,000 for the building and equipment of the National Cancer Institute. This building will be ready for use in the latter half of 1939. It will be erected at Bethesda, Maryland, on ground donated by Mr. and Mrs. Luke I. Wilson, and where the new buildings of the National Institute are in process of construction. For the fiscal year ending June 30, 1938, \$400,000 was appropriated for the Cancer Institute, "of which \$200,000 shall be available for the purchase of radium." For the present fiscal year (1938-1939) \$400,000 has been appropriated for carrying out the purposes of the act, without any specific restrictions.

On the basis of this statement of the provisions of the act I shall not discuss briefly the steps taken to carry them into effect.

First, radium. As stated \$200,000 was available for radium during the past fiscal year. The act itself authorizes the purchase of radium from time to time and that it be available for carrying out its purposes; further that "for such consideration and subject to such conditions" as shall be prescribed, radium may be loaned to institutions in the United States "for the study of the cause, prevention, or methods of diagnosis or treatment of cancer, or for the treatment of cancer." While the complicated and difficult details connected with the distribution by loan of large quantities of radium have not yet been settled fully, actual purchase has been made and arrangements for loans are underway in coöperation with state health departments.

Second, training in technical matters relating to the diagnosis and treatment of cancer. Obviously the framers of the act were impressed with the needs of special cancer training because facilities may be provided for such training to proper persons and such persons or trainees may receive a per diem allowance not to exceed \$10 while in training. The existing facilities for systematic postgraduate training in clinical cancer work are inadequate but can be increased without much difficulty. A small number of acceptable cancer centers are prepared to accept trainees and a number of

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